

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THOMAS E. PEREZ, SECRETARY OF
LABOR, UNITED STATES DEPARTMENT
OF LABOR,

Plaintiff,

V.

**MARKETING SOLUTIONS GROUP, INC.,
et al.,**

Defendants.

Case No. 1:15-CV-01901

**JUDGE PATRICIA A.
GAUGHAN**

**MAGISTRATE JUDGE
KENNETH S. McHARGH**

JUDGMENT

Plaintiff, Thomas E. Perez, Secretary of Labor, United States Department of Labor (the “Secretary”), has filed his Complaint, and Defendants Marketing Solutions Group, Inc. and Michael S. Gross (collectively, “Defendants”) having waived issuance and service of process and acknowledging receipt of a copy of the Complaint filed herein and waiving answer and all defenses to the Complaint, and without admitting the allegations of the Complaint, have agreed to the entry of this Judgment in accordance with the Stipulation between the parties filed herein. It is therefore, for cause shown, ordered that:

1. Defendants, their agents, servants, employees, and all persons in active concert with them, are permanently enjoined and restrained from violating the provisions of §§15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938 (the “Act”), in any of the following manners:

A. Defendants shall not, contrary to Section 6 of the Act, employ any of their employees engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined by the Act, unless the employees receive compensation for their employment at a rate not less than the prevailing federal minimum wage rate.

B. Defendants shall not, contrary to Section 7 of the Act, employ any of their employees engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, as defined by the Act, for workweeks longer than forty (40) hours, unless employees receive compensation for their employment in excess of forty (40) hours per week at a rate not less than one and one-half times the regular rates at which they are employed.

C. Defendants shall not fail to make, keep, and preserve records of their employees, and of the wages, hours, and other conditions and practices of employment maintained by them, as prescribed by the regulations of the Administrator or the Secretary of Labor issued, and from time to time amended, pursuant to Section 11(c) of the Act, and found in Title 29, Chapter V, Code of Federal Regulations, Part 516.

2. As a result of the investigation and as a result of Defendant Michael Gross' failure to pay employees in compliance with Sections 6 and 7 of the Act, on September 10, 2015, an assessment letter was mailed to Defendant Gross assessing civil money penalties in the total amount of \$10, 106.25 pursuant to Section 16(e) of the Act. Defendant Gross served an exception to the assessment letter on September 18, 2015,

which was acknowledged by the Department on September 21, 2015. Upon reconsideration of the amount of penalties assessed, and as set forth in Paragraph 3 below, the Department amends the notice of assessment of penalties by reducing the assessment of civil money penalties to \$549.66.

3. The Secretary shall recover a total payment of \$30,000 plus interest from Defendants.

A. The parties agree that \$549.66 of that amount represents civil money penalties and the remaining \$29,450.34, for which execution may issue pursuant to the terms of this Judgment, represents back wages and is to be distributed by the Secretary to Defendants' employees listed in the attached Exhibit A and in the amounts set forth in the column "Gross Amounts Due," following each employee's name.

4. Defendants shall make the total payment of \$30,000 plus interest to the Secretary for disbursement as prescribed law and as follows:

A. An initial payment of \$7500 shall be tendered within 30 days of the entry of the Judgment in this matter. Thereafter, Defendants will tender 12 monthly payments of \$1885 to the Secretary which will be due starting 30 days after the initial payment with the subsequent payments being due days 30 after the previous payment.

B. Each check shall be made payable to the "Wage and Hour Division, U.S. Department of Labor," and shall be mailed to the Wage and Hour Division, Midwest Regional Office, 230 South Dearborn Street, Room 530, Chicago, Illinois 60604-1757.

5. Any money not distributed by the Secretary within a reasonable time because of the Secretary's failure to locate the proper person or because of such person's refusal to accept such money shall be covered into the Treasury of the United States as miscellaneous receipts.

6. The failure of Defendants to make any payment within ten (10) days of the due date as provided herein shall result in the balance then owing being due immediately from Defendants. The failure of the Secretary, upon a late payment of Defendants, to take any action to collect the balance then owing shall not be construed as a waiver by the Secretary of the right to do so following any future late payment.

7. The attached Exhibit A is incorporated in and made a part of this Judgment.

8. Defendants shall not request, solicit, suggest, or coerce, directly or indirectly, any employee to return or to offer to return to Defendants or to someone else on behalf of Defendants any money in the form of cash, check, or any other form, for wages previously due or to become due in the future to said employee under the provisions of this Judgment or the Act; nor shall Defendants discharge or in any other manner discriminate, solicit, or encourage anyone else to discriminate against any such employee because such employee has received or retained money due to him from the Defendants under the provisions of this Judgment.

9. No costs or disbursement are allowed.

Dated this 18th day of November, 2015.

/s/ Patricia A. Gaughan

JUDGE PATRICIA A. GAUGHAN

/s/ Mark D. Katz

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